

DIVISION IV

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOSEPHINE LINKER HART, Judge

CA06-251

November 8, 2006

DAVID DAVIS

APPEAL FROM THE POLK COUNTY
CIRCUIT COURT
[NO. JV-2003-12]

APPELLANT

V.

HON. JOHN W. COLE,
CIRCUIT JUDGE

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

MOTION DENIED; REBRIEFING
ORDERED

APPELLEE

This is a no-merit appeal from a termination of parental rights. Counsel for David Davis has filed a motion to withdraw and a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Ark. Sup. Ct. R. 4-3(j)(1). Davis was provided a copy of counsel's brief but has not filed pro se points for reversal, and the Arkansas Department of Human Services (ADHS) has not filed a brief. After reviewing the brief and the transcript, we hold that it is not appropriate to dispose of this case with a no-merit appeal. We therefore deny appellate counsel's motion to withdraw and order that this case be briefed on the merits.

In *Linker-Flores*, our supreme court held that the no-merit procedure set forth in *Anders v. California*, 386 U.S. 738 (1967), shall apply in cases of indigent-parent appeals from orders terminating parental rights. The court held that appointed counsel for an indigent parent on a first appeal from a termination order may petition to withdraw as counsel if, after a conscientious review of the record, counsel can find no issue of arguable merit for appeal. *Id.* We may only grant appellate counsel's motion to withdraw if, after a full examination of the record, we determine that a merit appeal would be "frivolous." *Id.* Here, appellate counsel has not fulfilled his obligation to thoroughly discuss how the adverse findings made by the trial court could not support a merit appeal. Specifically, but not exhaustively, we note that in the four volume, 600-page transcript, which appellate counsel has condensed into an eleven-page abstract and twenty-eight page addendum, there is virtually no evidence that Davis represented any potential harm to the minor children. We therefore order that this case be resubmitted as an appeal on the merits.

Motion to be relieved denied; rebriefing ordered.

VAUGHT and BAKER, JJ., agree.